

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

STANLEY LEONARD BURTON,

Plaintiff,

vs.

SHELBY COUNTY SHERIFF, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

Civil Action Number
2:04-cv-1192-UWC-PWG

MEMORANDUM OF OPINION

The magistrate judge filed a Report and Recommendation on April 27, 2006, recommending that this cause be dismissed without prejudice for plaintiff's failure to exhaust his administrative remedies. While the magistrate judge did not recommend that defendants' motion for summary judgment be granted, the recommendation that the action be dismissed without prejudice was based on plaintiff's failure to exhaust his administrative remedies. Inasmuch as failure to exhaust was one basis of defendants' motion for summary judgment, defendants' motion for summary judgment is due to be GRANTED.^{1/} No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the Report and Recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court

^{1/} Although the magistrate judge indicated that plaintiff's claims were "dismissed without prejudice to Plaintiff refiling his lawsuit after he exhausts his administrative remedies," the undersigned hereby CLARIFIES that the statement quoted above does not affect any time limits for bringing grievances under the Shelby County Jail's grievance procedure.

EXPRESSLY FINDS that there are no genuine issues of material fact and that the Defendants are entitled to judgment as a matter of law.

Accordingly, Defendants' motion for summary judgment is due to be GRANTED and this action is due to be DISMISSED WITHOUT PREJUDICE. A Final Judgment will be entered.

Done this 23rd day of June, 2006.

A handwritten signature in black ink, appearing to read "U.W. Clemon", written in a cursive style.

U.W. Clemon
Chief United States District Judge